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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/789,228	02/26/2004	Wallis Wiremu Toataua Farraday	357089/0150	7967

7590 05/17/2007
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EXAMINER

JACKSON, BRANDON LEE

ART UNIT	PAPER NUMBER
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3772

MAIL DATE	DELIVERY MODE
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05/17/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/789,228

Applicant(s)

FARRADAY, WALLIS WIREMU
TOATAUA

Examiner

Brandon Jackson

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 05 April 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-23 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 12 is/are allowed.
- 6) ☒ Claim(s) 1-11 is/are rejected.
- 7) ☒ Claim(s) 23 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

This action is in response to arguments/amendments filed 4/11/2007. Currently claims 1-23 are pending in the application.

Response to Arguments

Applicant's arguments filed 4/1/2007 have been fully considered but they are not persuasive. Applicant argues that the Kania device is not a removable cast. However, a cast is defined as a rigid surgical dressing, therefore it must be rigid and cover the injured site. The Kania device is inherently removable because it is not bonded to the person. Applicant argues that a cast cannot have a leg or foot attachment, however Applicant does not provide evidence that a cast may not have any attachments. Applicant argues that one of ordinary skill in the art would not understand that the leg or foot of the prosthesis could be removed from the hard socket. One of ordinary skill would know that it should be removed from the hard socket, because it is well known in the art the prosthesis can be removed; patients remove the leg and foot attachments for purposes such as sleeping or using wheel chairs. Applicant argues that casts are usually formed by wrapping a limb with a flexible material, such as gauze. Usually inherently implies that not all casts are formed by wrapping. However, wrap can be defined as covering, which the Kania device does. Applicant argues the Kania device is not intended to be used in the same manner as the claimed invention. The Kania device is fully capable of being used in the same manner as the claimed invention because it is structurally equivalent to the claimed invention.

Claim Objections

Claim 23 is objected to because of the following informalities: "gause" should be "gauze". Appropriate correction is required.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 3-6, and 9-11 are rejected under 35 U.S.C. 102(b) as being anticipated by Kania (US Patent 5,830,237). Kania discloses a removable post operative limb dressing comprising a thermoplastic gel liner (cushion liner, Figure 7A), a protective covering over the liner (fabric liner, column 6, lines 20-25), a removable cast (hard socket), and a securing means (knee sleeve) for securing the removable cast to the limb (see Figure 11).

Regarding claims 3-5, the gel liner and fabric covering are closed at one end and open at another (see Figure 11).

Regarding claim 6, the removable cast (hard socket, Figure 11) is cut along its top periphery.

Regarding claim 9, the knee sleeve in Figure 11 can be considered to be a strap.

Regarding claim 10, the socket has an opening at the top periphery for receiving the limb (see Figure 11) proximate the knee joint.

Regarding claim 11, the dressing is suitable for a below the knee amputated leg.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 2, 7, and 8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kania in view of Schon et al (US Patent 6,368,357).

Regarding claim 2, Kania substantially discloses the claimed invention as applied to claim 1, but does not disclose a distal pad or a cast that is cut into more than one portion and has a hinge. Schon et al teach a removable post operative limb dressing comprising a distal pad (210) and a cast (22) that is cut into more than one portion (24 and 26) and comprises a hinge keeping the removable cast in one piece (column 5, lines 26-33). It would have been obvious to one having ordinary skill in the art at the time the invention was made to have provided the dressing disclosed by Kania having a distal pad and hinged cast, as taught by Schon et al, to provide extra padding to the end of the operative site and facilitate easy removal of the cast.

Regarding claims 7 and 8, Kania substantially discloses the claimed invention as applied to claim 1, but does not disclose the removable cast is cut into more than one

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portion. Schon et al teach a removable cast cut into more than one portion (24 and 26) having a hinge (column 5, lines 20-25) so that the shell is designed to open and close about the residual limb. It would have been obvious to one having ordinary skill in the art at the time the invention was made to have provided the dressing disclosed by Kania having a hinged cast cut into more than one portions, as taught by Schon et al, to provide easy removal of the cast.

Allowable Subject Matter

Claims 12-22 are allowed. The following is a statement of reasons for the indication of allowable subject matter: the prior art of record does not teach or suggest the combination of a method for dressing a post-operative limb comprising applying a thermo plastic gel liner, placing a distal pad over the liner, covering the limb with a protective covering, placing a spacer around the perimeter covering with a protective covering with a wrapping means, wrapping the limb with a cast forming gauze, shaping the residual muscle tissue before the gauze solidifies, cutting the cast proximate the spacer around the periphery to permit removal, and securing the cast on the post-operative limb with one or more securing means.

Claim 23 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Brandon Jackson whose telephone number is (571)272-3414. The examiner can normally be reached on Monday - Friday 8-5:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Patricia Bianco can be reached on (571)272-4940. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Brandon Jackson
Examiner
Art Unit 3772

BLJ

A handwritten signature in black ink, appearing to read 'MAB', followed by a long horizontal flourish.

MICHAEL A. BROWN
PRIMARY EXAMINER